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IN THE HIGH COURT OF KARNATAKA AT BANGALORE

Dated this the 16th day of June 1998

B e f o r e

THE HON'BLE MR.JUSTICE CHANDRASHEKARAIAH

W.P.NO:23957/97

BETWEEN:

S.Shanmugam, aged about 50 years,  
s/o. late Subramani, r/a.No.6,  
I Main II cross, Industrial  
Workers' Layout, Jarakbande kaval,  
Srikanteshwara nagar,  
Bangalore-96.

... Petitioner;

(By Sri. K.Srinivas Upadhaya)

AND:

1. The Commissioner,  
Bangalore City Corporation,  
J.C.Road, Bangalore-2.

2. The Assistant Revenue Officer,  
Mahalakshimpura Range, Sheshadripuram,  
Bangalore-20-

3. Smt.Jayamma, w/o Sri.Narasimhaiah,  
aged about 44 years, r/a, No.32-D,  
6A cross, New Extension, Jarakbandekaval,  
-do- ... Respondents;

4. Smt.Shanthamma, w/o Sri.Nanjappa,  
aged about 24 years, r/a.No.32-B,  
6A cross, rest -do-

5. Sri.B.S.Jayaram, s/o Sri.  
Shamanna, Hindu, major, r/a.No.32-C,  
6A cross, New Extension, rest -do- ... Respondents;

(Sri.B.V.Muralidhar for R1 and R2;  
Sri.K.L.Manjunath for R-3 to R-5)

Writ Petition is filed under Arts.226 and 227 of the  
Constitution praying to direct the respondents to register  
katha in respect of the property at No.6, I Main, II cross  
Industrial Workers' Layout, Jarakbande Kaval, Srikantesh-  
warnagar, Bangalore-90.

This petition coming on for preliminary hearing in  
R Group this day, the Court made the following:

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O R D E R

16-6-1998

The petitioner claims to be the owner of the site bearing No.6, at I Main, II cross, Industrial Workers' Layout, Jarakbande Kaval, Srikanteshwarnagar Bangalore-96, having purchased under a registered sale deed dated 24-2-1992. After the said purchase, the petitioner filed an application before the Corporation to effect katha in his favour. On that application the Corporation directed the petitioner to produce certain documents to establish title to the property in question.

2. It is submitted that the petitioner has produced the documents to show that he has purchased the property under a registered sale deed. Thereafter, the Corporation again issued another endorsement intimating that the application of the petitioner for transfer of katha cannot be considered in view of the pendency of the suit. Ultimately, the Corporation has issued one more endorsement stating that certain clarification has been sought for from the BDA and therefore, till the clarification is received the request of the petitioner cannot be

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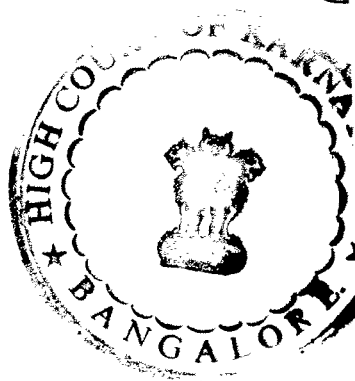
considered for effecting katha. In view of the different endorsements issued by the Corporation, the petitioner has filed this petition.

3. Respondents-3 to 5 also claim to be the owners of the site in question. No doubt, there is a dispute in respect of the title to the property between the petitioner and respondents 3 to 5. It appears civil suit is also pending consideration. When the petitioner filed the application for effecting katha and if it is objected by respondents-3 to 5 and they have also filed applications for effecting katha in their favour, the Corporation ought to have clubbed all the applications <sup>filed</sup> for effecting katha and should have <sup>A</sup> passed a common order after affording an opportunity to all the persons interested in the site in question. In the case on hand, no such steps are taken by the Corporation. Before the Civil Court also there is no order restraining the Corporation from considering the applications <sup>of</sup> either <sup>✓</sup> the petitioner or of <sup>res-</sup> <sup>✓</sup> respondents-3 to 5. When such being the case, it was appropriate for the Corporation to have considered the case of petitioner and respondents-3 to 5 and pass orders for change of katha. If the Corporation finds that in the

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proceedings relating to change of katha, ~~in order~~ <sup>with issue relating to title which property to be decided by the Civil Court</sup> the Court to decide title to the property, it may direct the parties to approach the Civil Court for declaration of title, with liberty to the party to move the Corporation in the event he succeeds in the suit. Without following this procedure the Corporation was not right in issuing the endorsement as per Annexure-K stating that the Corporation will consider the application of the petitioner after the receipt of the clarification received from the BDA.

Accordingly, writ petition is disposed of with a direction to the Corporation to consider the applications filed by the petitioner and respondents-3 to 5 in respect of change of katha in respect of the aforesaid site, <sup>in light of the above observation.</sup> after due notice to all the persons interested as expeditiously as possible.



Sd/-  
JUDGE

Hsf.